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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE DONNA M. RYU, JUDGE

MALAD BALDWIN AND)	
KATHRYN R. WADE,)	
)	
PLAINTIFFS,)	NO. C-15-2762 KAW (DMR)
)	
VS.)	THURSDAY, MAY 18, 2017
)	
OFFICERS JAMES COLLEY)	OAKLAND, CALIFORNIA
AND CASEY BROGDON,)	
)	
)	SETTLEMENT
)	
DEFENDANTS.)	
)	

TRANSCRIPT OF PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND
RECORDING - 3:44 P.M. - 3:51 P.M.

APPEARANCES:

FOR PLAINTIFFS: LAW OFFICES OF MARK W. KELSEY
877 YGNACIO VALLEY ROAD, SUITE 208
WALNUT CREEK, CALIFORNIA 94596
BY: MARK W. KELSEY, ESQUIRE

ALSO PRESENT: MALAD BALDWIN & KATHRYN R. WADE

FOR DEFENDANTS: MCNAMARA, NEY, BEATTY, SLATTERY,
BORGES & AMBACHER
1211 NEWELL AVENUE
WALNUT CREEK, CALIFORNIA 94596
BY: NOAH G. BLECHMAN, ESQUIRE

ALSO PRESENT: OFFICERS JAMES COLLEY & CASEY BROGDON

TRANSCRIBED BY: DIANE E. SKILLMAN, CSR 4909, RPR, FCRR
OFFICIAL COURT REPORTER

TRANSCRIPT PRODUCED BY COMPUTER-AIDED TRANSCRIPTION

1 THURSDAY, MAY 18, 2017

3:44 P.M.

2 P R O C E E D I N G S

3 **THE CLERK:** CALLING CIVIL MATTER C-15-2762 KAW.
4 MALAD BALDWIN, ET AL. VERSUS OFFICER JAMES COLLEY, ET AL.
5 COUNSEL, PLEASE STATE YOUR APPEARANCES.

6 **MR. KELSEY:** MARK KELSEY REPRESENTING THE PLAINTIFFS.

7 **MR. BLECHMAN:** AND NOAH BLECHMAN REPRESENTING
8 OFFICERS COLLEY AND BROGDON, DEFENDANTS.

9 **THE COURT:** THE PARTIES AND THEIR LAWYERS HAVE PUT IN
10 A NUMBER OF HOURS TODAY WORKING REALLY HARD TO SETTLE THIS
11 CASE, AND THEY HAVE REACHED A FULL SETTLEMENT OF THE CASE.

12 I'M GOING TO ANNOUNCE THE MATERIAL, ESSENTIAL TERMS OF THE
13 SETTLEMENT ON THE RECORD HERE TODAY. ONCE THE PARTIES AGREE
14 TO THOSE TERMS, THE SETTLEMENT TERMS WILL BE FULLY BINDING AND
15 ENFORCEABLE. I'M GOING TO STATE THOSE SETTLEMENT TERMS NOW,
16 AND I'LL THEN BE ASKING THE LAWYERS WHETHER I GOT THEM CORRECT
17 AND THEN I'LL ASK THE PARTIES ABOUT WHETHER THEY UNDERSTAND
18 THEM AND AGREE TO BE BOUND BY THEM. HERE ARE THE MATERIAL,
19 ESSENTIAL TERMS OF THE AGREEMENT.

20 THE DEFENDANTS JAMES COLLEY AND CASEY BROGDON AGREE TO PAY
21 PLAINTIFFS MALAD BALDWIN AND KATHRYN R. WADE A FULL -- TOTAL
22 SUM OF \$20,000 IN FULL SETTLEMENT OF THE CASE. THAT WILL BE
23 PAYABLE TO \$10,000 TO KATHRYN R. WADE AND \$10,000 TO MALAD
24 BALDWIN. PAYMENTS WILL BE MADE TO THEM WITHIN FOUR WEEKS FROM
25 DEFENDANTS' RECEIPT OF MR. BALDWIN AND MS. WADE'S W9 FORMS.

1 EACH SIDE SHALL BEAR THEIR OWN FEES AND COSTS.

2 THE SETTLEMENT CANNOT BE CONSTRUED AS AN ADMISSION OF
3 LIABILITY BY ANY PARTY.

4 PLAINTIFFS BALDWIN AND WADE AGREE THAT THEY ARE RELEASING
5 ALL CLAIMS, BOTH KNOWN AND UNKNOWN, THROUGH TODAY, INCLUDING A
6 WAIVER OF CALIFORNIA CIVIL CODE SECTION 1542 THAT THEY MAY
7 HAVE AGAINST JAMES COLLEY, CASEY BROGDON, THE CITY OF ANTIOCH
8 AND THE ANTIOCH POLICE DEPARTMENT THAT ARE RELATED IN ANY WAY
9 TO THE ALLEGATIONS IN THE COMPLAINT FILED IN THIS CASE.

10 THE PLAINTIFFS AGREE THAT THEY BEAR RESPONSIBILITY FOR ALL
11 MEDICAL LIENS THAT ARE RELATED TO THIS CASE, AND THE
12 PLAINTIFFS AGREE THAT THEY SHALL INDEMNIFY THE DEFENDANTS FOR
13 ANY MEDICAL LIENS RELATED TO THIS CASE.

14 MR. BALDWIN AND MS. WADE AGREE THAT THEY ARE DISMISSING
15 THIS CASE WITH PREJUDICE.

16 MR. KELSEY, ON BEHALF OF THE PLAINTIFFS, HAVE I ACCURATELY
17 STATED THE MATERIAL, ESSENTIAL TERMS OF THE SETTLEMENT
18 AGREEMENT.

19 **MR. KELSEY:** YES, YOUR HONOR, THAT IS PRECISELY MY
20 UNDERSTANDING.

21 **THE COURT:** MR. BLECHMAN, ON BEHALF OF DEFENDANTS,
22 HAVE I FULLY AND ACCURATELY STATED THE MATERIAL, ESSENTIAL
23 TERMS OF THE AGREEMENT?

24 **MR. BLECHMAN:** YES, YOUR HONOR.

25 **THE COURT:** OKAY.

1 SO LET ME ASK, WELL, MR. BALDWIN, SINCE YOU ARE RIGHT
2 THERE, CAN YOU PLEASE STATE YOUR NAME?

3 **PLAINTIFF BALDWIN:** MY NAME IS MALAD RONELL BALDWIN.

4 **THE COURT:** MR. BALDWIN, ARE YOU A PLAINTIFF IN THIS
5 CASE?

6 **PLAINTIFF BALDWIN:** YES, MA'AM.

7 **THE COURT:** AND HAVE YOU BEEN HERE FOR THE WHOLE
8 SETTLEMENT CONFERENCE HERE TODAY?

9 **PLAINTIFF BALDWIN:** YES, MA'AM.

10 **THE COURT:** I JUST EXPLAINED THE MATERIAL, ESSENTIAL
11 TERMS OF THE SETTLEMENT AGREEMENT. DID YOU HEAR AND
12 UNDERSTAND EACH OF THOSE TERMS?

13 **PLAINTIFF BALDWIN:** YES, MA'AM.

14 **THE COURT:** DO YOU HAVE ANY QUESTIONS ABOUT ANY OF
15 THEM?

16 **PLAINTIFF BALDWIN:** NO, MA'AM.

17 **THE COURT:** DO YOU AGREE TO BE BOUND BY EACH OF THOSE
18 TERMS IN FULL SETTLEMENT OF YOUR CASE?

19 **PLAINTIFF BALDWIN:** YES, MA'AM.

20 **THE COURT:** OKAY.

21 I'M GOING TO ASK MS. WADE TO PLEASE COME UP TO THE
22 MICROPHONE.

23 MS. WADE, COULD YOU PLEASE STATE YOUR NAME.

24 **PLAINTIFF WADE:** KATHRYN R. WADE.

25 **THE COURT:** MS. WADE, ARE YOU A PLAINTIFF IN THIS

1 CASE?

2 **PLAINTIFF WADE:** YES.

3 **THE COURT:** DID YOU HEAR AND UNDERSTAND THE MATERIAL,
4 ESSENTIAL TERMS OF THE SETTLEMENT AGREEMENT THAT I JUST
5 ANNOUNCED ON THE RECORD?

6 **PLAINTIFF WADE:** YES.

7 **THE COURT:** AND DO YOU HAVE ANY QUESTIONS FOR ME
8 ABOUT ANY OF THEM?

9 **PLAINTIFF WADE:** EXCUSE ME.

10 (PAUSE IN THE PROCEEDINGS.)

11 **PLAINTIFF WADE:** NO.

12 **THE COURT:** OKAY. NO QUESTIONS ABOUT THE TERMS OF
13 THE AGREEMENT?

14 **PLAINTIFF WADE:** THE 1099, WHERE DO WE GET THE 1099
15 FROM?

16 **THE COURT:** IT'S A W9 FORM.

17 **PLAINTIFF WADE:** I MEAN THE W9.

18 **THE COURT:** AND SO SOUNDS LIKE MR. KELSEY WILL GET
19 YOU THE FORM.

20 **PLAINTIFF WADE:** OKAY.

21 **THE COURT:** IT IS JUST A FORM --

22 **PLAINTIFF WADE:** I CAN GET IT OFF THE INTERNET.

23 **THE COURT:** YES, YOU CAN DO THAT OR HE CAN GIVE IT TO
24 YOU. THE MAIN THING IS, ONCE YOU TURN THAT IN TO DEFENSE,
25 THEY WILL HAVE FOUR WEEKS FROM THAT TIME TO PAY YOU THE

1 CHECKS. OKAY?

2 DO YOU HAVE ANY OTHER QUESTIONS ABOUT THE MATERIAL,
3 ESSENTIAL TERMS OF THE AGREEMENT?

4 **PLAINTIFF WADE:** NO.

5 **THE COURT:** OKAY. YOU WERE HERE ALL DAY TODAY FOR
6 THE SETTLEMENT CONFERENCE, RIGHT?

7 **PLAINTIFF WADE:** YES.

8 **THE COURT:** OKAY. DO YOU AGREE TO BE BOUND BY EACH
9 AND EVERY ONE OF THOSE TERMS IN FULL SETTLEMENT OF YOUR CASE?

10 **PLAINTIFF WADE:** YES.

11 **THE COURT:** OKAY.

12 NOW MR. BLECHMAN, DO YOU HAVE THE AUTHORITY TO BIND
13 DEFENDANTS COLLEY AND BROGDON?

14 **MR. BLECHMAN:** YES.

15 **THE COURT:** ON BEHALF OF THOSE TWO DEFENDANTS, DID
16 YOU HEAR AND UNDERSTAND EACH OF THE MATERIAL, ESSENTIAL TERMS
17 OF THE AGREEMENT?

18 **MR. BLECHMAN:** YES, YOUR HONOR.

19 **THE COURT:** DO YOU HAVE ANY QUESTIONS ABOUT ANY OF
20 THEM?

21 **MR. BLECHMAN:** NO, YOUR HONOR.

22 **THE COURT:** ON BEHALF OF THOSE TWO DEFENDANTS AND IN
23 FULL SETTLEMENT OF THE CASE AGAINST THEM, DO YOU AGREE TO BE
24 BOUND BY EACH AND EVERY ONE OF THOSE TERMS?

25 **MR. BLECHMAN:** YES, YOUR HONOR.

1 **THE COURT:** OKAY.

2 IS THERE ANYTHING FURTHER, MR. KELSEY.

3 **MR. KELSEY:** NO, YOUR HONOR.

4 **THE COURT:** MR. BLECHMAN?

5 **MR. BLECHMAN:** THE ONLY THING I WOULD ADD, YOUR
6 HONOR, IS THAT SINCE PLAINTIFFS ARE STILL REPRESENTED HERE,
7 THAT I WILL BE COMMUNICATING WITH MR. KELSEY AND HE PERHAPS
8 CAN GET US THE SIGNED FORMS TO SWIFT -- TO MORE SWIFTLY
9 RESOLVE THIS WITH GETTING YOU GUYS THE CHECKS.

10 **THE COURT:** THE W9?

11 **MR. BLECHMAN:** YES.

12 **THE COURT:** SO BECAUSE MR. KELSEY IS STILL YOUR
13 LAWYER, MR. BLECHMAN HAS AN ETHICAL DUTY TO COMMUNICATE
14 DIRECTLY WITH HIM INSTEAD OF WITH MR. BALDWIN OR MS. WADE. SO
15 THAT'S WHY HE'S POINTING THAT OUT.

16 **PLAINTIFF WADE:** THAT'S -- YEAH.

17 **THE COURT:** YOU AGREE?

18 **PLAINTIFF WADE:** YES. THAT'S ALL I WANTED TO --

19 **THE COURT:** SO MR. BLECHMAN AND MR. KELSEY WILL
20 ARRANGE TO GET THE W9'S FROM THE TWO OF YOU, AND ONCE THEY ARE
21 SUBMITTED TO THE DEFENDANT, THAT WILL TRIGGER THE CHECK
22 DEADLINE. OKAY?

23 IS THERE ANYTHING FURTHER?

24 **MR. BLECHMAN:** NOTHING FROM US, YOUR HONOR.

25 **THE COURT:** MR. KELSEY?

1 **MR. KELSEY:** THAT'S IT, YOUR HONOR.

2 **THE COURT:** OKAY. THANK YOU.

3 **MR. KELSEY:** THANK YOU, YOUR HONOR.

4 **MR. BLECHMAN:** THANK YOU VERY MUCH, YOUR HONOR.

5 **PLAINTIFF WADE:** THANK YOU, YOUR HONOR.

6 **THE COURT:** YOU'RE WELCOME.

7 (PROCEEDINGS CONCLUDED AT 3:51 P.M.)

8
9 **CERTIFICATE OF TRANSCRIBER**

10
11 I CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT
12 TRANSCRIPT, TO THE BEST OF MY ABILITY, OF THE ABOVE PAGES OF
13 THE OFFICIAL ELECTRONIC SOUND RECORDING PROVIDED TO ME BY THE
14 U.S. DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, OF THE
15 PROCEEDINGS TAKEN ON THE DATE AND TIME PREVIOUSLY STATED IN
16 THE ABOVE MATTER.

17 I FURTHER CERTIFY THAT I AM NEITHER COUNSEL FOR, RELATED
18 TO, NOR EMPLOYED BY ANY OF THE PARTIES TO THE ACTION IN WHICH
19 THIS HEARING WAS TAKEN; AND, FURTHER, THAT I AM NOT
20 FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF THE
21 ACTION.

22
23 

24 DIANE E. SKILLMAN, TRANSCRIBER

25 MONDAY, JUNE 5, 2017